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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/789,562	02/27/2004	Artur Mitterer	20695D-000120US	9550	
	7590 03/17/200 LTHCARE CORPOR.	EXAMINER			
ONE BAXTER		ROBINSON, HOPE A			
MAIL STOP DF2-2E DEERFIELD, IL 60015			ART UNIT	PAPER NUMBER	
				1652	
			MAIL DATE	DELIVERY MODE	
			03/17/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)		
Office Action Comments	10/789,562	MITTERER ET AL.		
Office Action Summary	Examiner	Art Unit		
	HOPE A. ROBINSON	1652		
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the o	correspondence address		
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tir will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	N. mely filed I the mailing date of this communication. ED (35 U.S.C. § 133).		
Status				
Responsive to communication(s) filed on 14 F This action is FINAL . 2b) ☐ This Since this application is in condition for allowatelessed in accordance with the practice under E	s action is non-final. nce except for formal matters, pro			
Disposition of Claims				
4) ☐ Claim(s) 1 and 17-22 is/are pending in the approach 4a) Of the above claim(s) 1 and 18-22 is/are w 5) ☐ Claim(s) 17 is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	ithdrawn from consideration.			
Application Papers				
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Example 11.	epted or b) objected to by the drawing(s) be held in abeyance. Setion is required if the drawing(s) is ob	e 37 CFR 1.85(a). ejected to. See 37 CFR 1.121(d).		
Priority under 35 U.S.C. § 119				
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 				
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate		

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DETAILED ACTION

Application Status

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 14, 2008 has been entered.

Claim Disposition

- 2. Claims 1 and 17-22 pending. Claim 17 is under examination.
- 3. This application is in condition for allowance except for the following formal matters:

Applicant needs to cancel the nonelected claims or amend them to be commensurate in scope with the claims as set forth in the rejoinder paragraph." Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments

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submitted after final rejection is governed by 37 CFR 1.116; amendments submitted after allowance is governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between products claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01."

4. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

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A shortened statutory period for reply to this action is set to expire **TWO MONTHS**

from the mailing date of this letter.

Response to Arguments

5. The response filed has been considered. Note that the rejections of record have been

withdrawn, however, objections remain for the reasons stated above.

Conclusion

6. Claim 17 is allowable.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The

examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Nashaat T. Nashed, Ph.D., can be reached at (571) 272-0934. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hope A. Robinson/

Primary Examiner, Art Unit 1652